IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.9.2007

CORAM

THE HON'BLE MR.JUSTICE P.D.DINAKARAN
AND
THE HON'BLE MR.JUSTICE R.REGUPATHI

Habeas Corpus Petition No.628 of 2007

Sumathi .. Petitioner

Vs.

1. Secretary to Government
   Home Department
   Fort St. George, Chennai-9.

2. The Superintendent,
   Central Prison, Puzhal,
   Chennai. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.R.Sankarasubbu

For Respondents : Mr.N.R.Elango
Additional Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner is the mother of the detenu viz., Selvam @ Vijaya Selvam @ Surya, who is clamped with an order of detention order dated 9.4.2007 branding him as a 'Goonda' and detained in Central Prison, Puzhal, Chennai. Complaining that on 20.4.2007 at about 6.30 a.m. the detenu was assaulted with an iron rod by one Anbazhagan, Assistant Jailer and was also hit against the wall and as a result, the detenu sustained 16 grievous injuries on his forehead, but he was not given proper treatment and was left in a dying condition under solitary confinement, she sent a

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

telegram on 26.4.2007 to the first respondent, but the same did not yield any result. Therefore, the petitioner filed this habeas corpus petition seeking a writ of habeas corpus directing the Principal Sessions Judge, Chennai to hold an enquiry into the matter of criminal assault on the detenu Selvam @ Vijaya Selvam @ Surya, son of Palanivel, on 20.4.2007 in Central Prison, Puzhal, Chennai.

2. Moved by the above allegations, this Court by order dated 27.4.2007 passed the following directions:

> "Heard the counsels appearing for the parties.
>
> 2. The allegation made by the mother is that her son Selvam @ Vijaya Selvam @ Surya, son of Palanivel in custody in Central Prison, Puzhal has been assaulted by the officials and sustained serious injuries and the condition is serious and some treatment is being given in the Jail hospital.
>
> 3. The counsel for the petitioner further submitted that treatment should be given in the Government General Hospital.
>
> 4. The learned Additional Public Prosecutor states that there was clash between co-accused and the detenu and the wound was self-inflicted.
>
> 5. Keeping in view the nature of allegation, we feel it just and proper to direct the Member Secretary, State Legal Services authority to visit the Central Prison, Puzhal immediately for on the spot enquiry either in course of today or by tomorrow to examine the concerned detenu and other persons and submit a report relating to the nature of injuries and also regarding the alleged incident. Such report may be furnished before the first vacation Court.
>
> 6. After examination of the detenu and enquiry is over, the jail authorities are directed to take the detenu to Government General Hospital for further treatment and he shall be treated as indoor patient in such hospital till the matter is taken up before the first vacation Court, on which date any further order as necessary may be passed.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

7. The learned Additional Public Prosecutor is directed to file status report relating to the treatment."

3. Thereafter, the mater was listed on 2.5.2007 and the Member Secretary, Tamil Nadu Legal Services Authority, reported to this Court that the detenu had already been shifted to Government Hospital, Royapettah for treatment as the detenu had suffered some incised wounds. The matter was again adjourned to 8.5.2007 to enable the Member Secretary, Tamil Nadu Legal Services Authority, to submit his report. Accordingly, the Member Secretary, Tamil Nadu Legal Services Authority, submitted a report dated 7.5.2007 along with the materials collected during the enquiry, to this Court on 8.5.2007.

4. After going through the report and the materials enclosed therewith, this Court in the order dated 8.5.2007 had observed that the Medical Officer attached to the Central Prison, Puzhal, has issued an accident register dated 20.4.2007 to the effect that he was informed by the detenu that he had sustained injuries due self-infliction. After adjourning the matter from time to time to enable the learned counsel for the petitioner to receive copies of the report and the connected documents, the matter came up for further orders on 22.8.2007.

5.1. On 22.8.2007, our attention was brought to the findings of the report of the Member Secretary, Tamil Nadu Legal Services Authority, dated 7.5.2007. The relevant paragraphs of the said report read as follows:

"3. On 29.4.2007, at 7.30 a.m. I visited the Central Prison II, Puzhal, where the remand prisoners are detained. On enquiry, I found that the detenu Selvam @ Vijayaselvam @ Surya s/o Palanivel, is housed in the Association Block II. This Block constitute two floors of 20 cells, each floor having 10 cells. In cell No.8 of the ground floor, the detenu Selvam @ Vijayaselvam @ Surya was detained along with six others. I conducted on the spot enquiry within the Cell No.8 of Block II. I enquired the detenu Selvam @ Vijayaselvam @ Surya and recorded his statement (Annexure II). He would state as follows:

4. The detenu stated that he is detained in that cell from 14.2.2007 under TPDA Act. He would further state that on the night of 19.4.2007, he complained about the dinner served to him and on 20.4.2007, around 6.30 a.m. Thiru

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Karuppannan, Jailer came along with five or six warders and took him to the security block tower. He would state that he was made naked and was assaulted. When he questioned, he was further beaten up on the head and sustained bleeding injury for which, later, he was given treatment in the hospital attached to the Security block and was later brought to Cell No.8 on Saturday. He complained of pain in the right fore-limb, knee and in calf muscle. He also complained of headache.

...

23. I also examined some of the detenus who were housed in the High Security block namely (1) Selvam @ Selvaraj, (2) Vasudevan, (3) Vijayakumar @ Karikko son of Ganesh, (4) Srinivasan, son of Irayan Chettiar. According to them, on 20.4.2007 around 7 or 8.00 a.m. the warders brought some inmates from another cell to the high security block and before entering the gate, the duty warders searched them and at that time, one of the inmates resisted and used abusive words and rushed to the iron gate and dashed his head against it, thereby sustained injury.

24. I respectfully submit that my enquiry would reveal two sets of statements, but the fact remains that the detenu Selvam @ Vijayaselvam @ Surya had sustained head injury which was sutured and also sustained other injuries over his limb and body.

...

31. As stated earlier, the detenu and the four others who were taken along with him to the High security block would allege that they were beaten up by the Jailer, Deputy Jailer and five or six warders. The detenu would specifically state that the Jailer Thiru Karuppannan and the Deputy Jailer Thiru Anbazhagan assaulted him and caused bleeding injury on his head.

32. On the other hand, the jail authorities would claim that the injuries were self-inflicted. The inmates in the High Security block would also state that the detenu had dashed his head against the iron gates voluntarily.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

...

34. It is not uncommon in jails that a hardcore criminals may go to any extent to inflict injuries voluntarily. It is also not uncommon in the administration of jails, the inmates who are causing nuisances used to be separated and locked up in secluded cells as a minor punishment. It is also not uncommon that the authorities use force when the inmates resist.

...

38. Therefore, prima facie it is evident that the detenu had suffered the injuries at the hands of the persons who dealt with him on 20.4.2007 between 6.30 a.m. and 7.45 a.m.

39. As stated earlier, the detenu and others would state that the injuries were inflicted by the Jailer Thiru Karuppannan and the Deputy Jailer Thiru Anbazhagan and by five or six warders who took them to the High Security block. However, the records and the statements of the jailers would show that the Deputy Jailer Thiru Anbazhagan was attending his interview and censorship duty in the main gate and I am satisfied that he would not have been present during the alleged incident.

40. Likewise, Thiru Karuppannan, the jailer was in over all supervising duty and I have no reason to disbelieve him as it was not his duty to present whenever the inmates are sifted to one block to another block. I am satisfied that Thiru.Karuppannan, Jailer was not present at the time of incident. It is also to be noted that the injuries on the head of the detenu could be self-inflicted."

WEB COPY

5.2. From the above relevant material documents, the Member Secretary, Tamil Nadu Legal Services Authority, culled out the following findings:

"42. However, the fact remains that the detenu had sustained injuries which are simple and grievous in nature, which results into following conclusion:-

https://hcservices.ecourts.gov.in/hcservices/

a) There was an incident of nuisance on the night of 19.4.2007 involving the detenu and others in Cell No.8 of Block II.

b) The authorities have decided to separate the detenu and others and lock them up in high security block.

c) The detenu and others probably would have resisted such lock up.

d) The warders who have handled them had used excess force thereby causing simple and grievous injury to the detenu.

e) The detenu has been given proper treatment and is still treated as in-patient at Government General Hospital, Royapettah and his condition is good.

f) The specific overt act could not be fixed as the responsibility for using such excess force to cause such injuries is collective."

5.3. After going through the above report in detail, we called for remarks and recommendations from the Additional Director General of Prisons as to the further course of action in the matter.

6. The Additional Director General of Prisons in his proceedings dated 12.9.2007 submitted his remarks and recommendations. The Additional Director General of Prisons, referring to the remarks, findings and observation of the Member Secretary, Tamil Nadu Legal Services Authority in paragraph 38 of his report dated 7.5.2007 that prima facie it is evident that the detenu had suffered injuries at the hands of the persons who dealt with him on 20.4.2007 between 6.30 a.m. and 7.30 a.m., observed that as per the report of the Deputy Inspector General of Prisons, Chennai Region, the following prison officials are responsible for the injuries sustained by the detenu in their slackness in not preventing the prisoner from dashing against the iron rod and accordingly, directed the Superintendent, Central Prison-II, Puzhal, to initiate disciplinary action against the following persons:

1. Thiru.A.Arumugam, II Grade Warder No.89.

2. Thiru.G.Murthy, II Grade Warder No.160 (now working at Sub Jails, Harur).

3. Thiru.S.Muthu Laxmanan, II Grade Warder No.197.
4. Thiru.L.Jayavel, II Grade Warder No.170.
5. Thiru.A.Azhagu Mariselvam, II Grade Warder No.201.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

7. In the facts and circumstances of the case, except to direct the respondents to furnish a copy of the report of the Additional Director General of Prisons along with the enclosures to the petitioner and permit the petitioner to work out her appropriate rights in a manner known to law, no further order can be passed in the habeas corpus petition by exercising Article 226 of the Constitution of India. The habeas corpus petition is ordered accordingly. Consequently, Crl.M.P.No.1 of 2007 is closed.

ATR

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
   Home Department
   Fort St. George, Chennai-9.

2. The Superintendent,
   Central Prison, Puzhal,
   Chennai.

3. The Public Prosecutor,
   High Court, Madras.

4. The Member Secretary
Tamil Nadu State Legal Service Authority,
High Court, Chennai

5. The Superintendent,
Central Prison II,
Puzhal, Chennai.

WEB COPY

SSV(CO)
SR/27.9.2007

https://hcservices.ecourts.gov.in/hcservices/